

EXHIBIT 4

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DOROTHY ANDERSON and
DEMARQUION MERRILL, as
Co-Personal Representative
of the Estate of BOBBY
MERRILL, deceased,

Plaintiffs,

Case No.: 13-11159

vs.

Hon. Thomas Ludington

OFFICER JEFF MADAJ, individually,
OFFICER JUSTIN SEVERS, individually,
OFFICER BRIAN GUEST, individually, and
OFFICER STEVEN WIETECH, individually,

Defendants.

_____ /

The Deposition of OFFICER BRIAN D. GUEST, taken
before David S. Ripka, CSR-2175 and Notary Public in and for
the County of Genesee, acting in the County of Saginaw, State
of Michigan, at the offices of Ripka, Boroski & Associates,
One Tuscola Street, Suite 301, Saginaw, Michigan, on Thursday,
November 21, 2013, commencing at or about 12:56 p.m.

APPEARANCES:

Fieger, Fieger, Kenney, Giroux, Danzig & Harrington, P.C.
BY: ROSS A. BRUNETTI, ESQ. (P73080)
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Appearing on behalf of Plaintiffs,

Page 62	Page 64
<p>1 A I'm going to have to guess again. I don't -- I didn't</p> <p>2 really pay attention to that. It was probably over a</p> <p>3 mile, less than two miles. I don't know. It was heavy</p> <p>4 traffic. I had to stop a few times for lights. It was a</p> <p>5 busy time of day.</p> <p>6 Q What time was it?</p> <p>7 A It was in the afternoon. I don't know if it was around</p> <p>8 4:00 or something, 3:30 maybe. I don't know.</p> <p>9 Q Best guess, 3:30 to 4 p.m.?</p> <p>10 A Something like that.</p> <p>11 Q All right. Eventually, you arrived on scene, correct?</p> <p>12 A Yes.</p> <p>13 Q And what street did you -- what street were you on when</p> <p>14 you first saw Officer Severs?</p> <p>15 A South Washington.</p> <p>16 Q Were you headed -- which direction were you headed on</p> <p>17 South Washington?</p> <p>18 A South.</p> <p>19 Q How far away were you from Officer Severs before you</p> <p>20 noticed him -- or when you noticed him?</p> <p>21 A I don't know. I didn't really pay attention to that.</p> <p>22 Q Okay. From the first moment that you saw Officer Severs,</p> <p>23 what did you notice about the situation?</p> <p>24 A I noticed that he had a taser in his hand. I didn't</p> <p>25 really focus a lot of attention on him.</p>	<p>1 Something like that.</p> <p>2 Q Okay. But all in the same sort of time frame?</p> <p>3 A Yeah.</p> <p>4 Q Were there any other officers on scene other than you and</p> <p>5 Officer Severs?</p> <p>6 A I pulled on scene with Officer Wietecha.</p> <p>7 Q Did you guys arrive at the same time.</p> <p>8 A Yeah. He was a couple feet ahead of me pretty much.</p> <p>9 Q Where did Officer Wietecha park in relation to you?</p> <p>10 A He was to the left side of me, so to the east of my car.</p> <p>11 Q Okay. And so then you pulled essentially to the right of</p> <p>12 Officer Wietecha?</p> <p>13 A Yes.</p> <p>14 Q And Officer Severs car was in front of you both?</p> <p>15 A Yes.</p> <p>16 Q Okay. As you got out of the car, you said that you saw a</p> <p>17 black male subject approaching you, correct?</p> <p>18 A Yes.</p> <p>19 Q What did he look like?</p> <p>20 A Black male subject. I don't know. Heavyset. Short</p> <p>21 hair. About my height.</p> <p>22 Q How tall are you?</p> <p>23 A Five-eleven.</p> <p>24 Q About how much did he weigh?</p> <p>25 A I'd say -- well, probably close to 300 pounds.</p>
Page 63	Page 65
<p>1 Q But you knew that Officer Severs had a taser in his hand?</p> <p>2 A Yes.</p> <p>3 Q Was he in or out of his vehicle?</p> <p>4 A Out.</p> <p>5 Q Where was he standing in the road?</p> <p>6 A I think he was probably in the southbound lane of</p> <p>7 Washington, but --</p> <p>8 Q What did you do as you approached the scene?</p> <p>9 A Got out of the car. Seen a black male subject coming</p> <p>10 towards me.</p> <p>11 Q Let me slow you down there for a second. Where did you</p> <p>12 stop the car?</p> <p>13 A I stopped my car I think it was in the southbound lane of</p> <p>14 Washington, just north of Officer Severs' patrol unit.</p> <p>15 Q Okay. So you stopped it near Officer Severs' patrol</p> <p>16 unit?</p> <p>17 A Yeah.</p> <p>18 Q Was his patrol unit running front to back in front of</p> <p>19 you? Was it sideways?</p> <p>20 A Sideways, I think.</p> <p>21 Q Okay. When you stopped the car, as you were getting out</p> <p>22 of the car, what did you perceive of the situation?</p> <p>23 A I seen a black male subject coming towards me.</p> <p>24 Q And this is before you got out of the car?</p> <p>25 A I don't know if it was before or right when I got out.</p>	<p>1 Q That's how much you believed him to weigh by looking at</p> <p>2 him?</p> <p>3 A Yeah. Something like that.</p> <p>4 Q Okay. So what did you do after you saw this person</p> <p>5 approaching you?</p> <p>6 A Told him to get on the ground.</p> <p>7 Q Did he get on the ground?</p> <p>8 A No.</p> <p>9 Q How did you tell him to get on the ground?</p> <p>10 A I think I just told him, "Get on the ground."</p> <p>11 Q All right. Did you notice anything about his appearance?</p> <p>12 Did anything about his appearance stand out --</p> <p>13 A Yeah.</p> <p>14 Q -- as odd?</p> <p>15 A Yeah.</p> <p>16 Q What about his appearance was odd?</p> <p>17 A He just was coming at me in a fighting stance.</p> <p>18 Q What made you think he was in a fighting stance?</p> <p>19 A It looked like he was getting ready to box.</p> <p>20 Q Can you describe what that looks like?</p> <p>21 A He just had his back foot offset from his front foot and</p> <p>22 kind of his hands up in front of his chest like this</p> <p>23 (Demonstrating), just like he was ready to fight.</p> <p>24 Q I'm sorry. Can you show me again where his hands were?</p> <p>25 A Just up by his chest like this.</p>

(Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 Q So you indicated his hands were by his chest. What did 2 his hands look like? Were they open hand? Were they 3 closed hand? 4 A I don't recall. You've got to remember, I mean, this 5 happened pretty quick. 6 Q I understand. I'm just trying to get to the best of your 7 recollection what you can remember. 8 A Sure. 9 Q All right? 10 So you looked at him. You said he was walking 11 towards you? 12 A Yes. 13 Q As you were pulling up, you said you also saw Officer 14 Severs with a taser drawn, correct? 15 A Yes. 16 Q All right. So as you're getting out of the car, and you 17 see this guy with his hands up, okay, coming toward you, 18 did Officer Severs do anything to him as this is going 19 on? 20 A No. 21 Q You didn't see Officer Severs deploy his taser? 22 A I don't think so, no. I think he already had it deployed 23 on him. 24 Q Did this black male suspect -- did you ever learn his 25 name?</p>	<p style="text-align: right;">Page 68</p> <p>1 A I didn't know that, no. 2 Q Did you suspect that? 3 A No. I didn't even think about that at the time. 4 Q Did it look like anything that you had said, that he had 5 even heard it? 6 A I know he heard it, but I don't know -- it didn't -- it 7 didn't click with him. He either didn't care or he 8 wasn't listening. 9 Q Okay. So after he is standing there in this what you 10 described as a fighting stance, okay, and you instructed 11 him to get on the ground, and he didn't comply, what did 12 you do next? 13 A Pulled my taser out. 14 Q And your taser is on your utility belt at this point? 15 A Yes. 16 Q What did you do after that? 17 A Well, first Officer Wietecha tasered him, but -- 18 Q So as you're pulling your taser out, Officer Wietecha 19 tasered him? 20 A Mm-hmm. 21 Q And you actually saw that? 22 MR. REISING: Excuse me. You've got to say -- 23 give a verbal answer. 24 MR. BRUNETTI: Yeah. 25 MR. REISING: I think your answer is yes, but I</p>
<p style="text-align: right;">Page 67</p> <p>1 A Yes. 2 Q What's his name? 3 A Bobby Merrill. 4 Q Okay. Did Bobby ever say anything to you after you told 5 him to get on the ground? 6 A I don't recall. I remember him saying things. But at 7 that point in time, I don't remember if he said anything 8 or not. I think he was. I don't remember what he said, 9 though. 10 Q Okay. Did he appear to be lucid at the time that you 11 told him to get on the ground? 12 A What's lucid? 13 Q Did he appear to be of clear mind? 14 A No. 15 Q Why would you say he wasn't? 16 A He just -- it's hard for me to explain, but -- 17 Q To the best of your ability. 18 A It looked like anything I was telling him, it didn't 19 matter. He had a blank stare, a thousand-yard stare. 20 Q So you saw him with a blank stare? 21 A That's what it looked like to me, yes. 22 Q Did you interpret that stare to mean anything? 23 A Yeah. Be careful. 24 Q Did you believe that he, based on the way that he looked, 25 that he was on any kind of a substance?</p>	<p style="text-align: right;">Page 69</p> <p>1 want to -- 2 THE WITNESS: Yes. 3 MR. REISING: -- get the answer. 4 Okay. Thanks. 5 MR. BRUNETTI: Thank you, Counsel. 6 Q (BY MR. BRUNETTI) When Officer Wietecha deployed his 7 taser, did he deploy it in stun mode, or did he deploy 8 the barbs, the probes? 9 A Probes. 10 Q How far away was Officer Wietecha standing from Bobby 11 Merrill? 12 A I don't know. 13 Q Was he closer to Bobby Merrill than you were? 14 A I don't know. 15 Q How close were you to Bobby Merrill? 16 A Ten feet maybe. I'm just guessing. 17 Q Were you further away than we're sitting -- 18 A Yes. 19 Q -- right now? 20 And we are sitting approximately three 21 and-a-half feet away from each other? 22 A Approximately, yeah. 23 Q And your best estimate right now is that you were about 24 ten feet away from Mr. Merrill? 25 A Or more, yes.</p>

(Pages 66 to 69)

<p style="text-align: right;">Page 70</p> <p>1 Q When Officer Wietecha deployed his taser on Bobby Merrill, did you see where the barb struck?</p> <p>2</p> <p>3 A Yeah.</p> <p>4 Q Where?</p> <p>5 A Somewhere in his jacket, his chest area.</p> <p>6 Q Did both of them strike there?</p> <p>7 A I don't know if both of them did. I know one did. I knew it didn't do anything.</p> <p>8</p> <p>9 Q Why do you know it didn't do anything?</p> <p>10 A Because it never penetrated him. It hit his jacket.</p> <p>11 Q What kind of jacket was he wearing?</p> <p>12 A Leather jacket.</p> <p>13 Q Do you remember what color it was?</p> <p>14 A No.</p> <p>15 Q Do you remember the style of jacket?</p> <p>16 A No. I mean, it was just a leather jacket. It wasn't a long -- you know, it was down to about waist length. I could tell that neither Officer Severs or Officer Wietecha's probes had made contact with him. His clothing was too thick.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 Q So at that point, you believe he was still wearing a jacket?</p> <p>22</p> <p>23 A Yes.</p> <p>24 Q All right. Did you see a shirt under the jacket?</p> <p>25 A Yeah.</p>	<p style="text-align: right;">Page 72</p> <p>1 Q Okay. Did Officer Wietecha tell Bobby Merrill he was going to deploy his taser?</p> <p>2</p> <p>3 A I don't know.</p> <p>4 Q What verbal commands did you give Bobby Merrill after you saw that the taser deployed by Wietecha didn't work?</p> <p>5</p> <p>6 A I don't know. I think I just told him to keep getting on the ground, something like that.</p> <p>7</p> <p>8 Q Were you shouting or talking?</p> <p>9 A Probably shouting.</p> <p>10 Q At this point, you indicated that you had pulled your taser, correct?</p> <p>11</p> <p>12 A Yes.</p> <p>13 Q As you were giving these instructions, where was your taser pointed?</p> <p>14</p> <p>15 A Probably at him. I don't know. Maybe I had it down by my side.</p> <p>16</p> <p>17 Q What would you typically do in a situation like that?</p> <p>18 A As far as where I would put my taser?</p> <p>19 Q Where would you -- yeah, where would you direct it as you were giving an order?</p> <p>20</p> <p>21 A Probably right at him.</p> <p>22 Q Okay. And do you remember how many times you told him to get on the ground?</p> <p>23</p> <p>24 A No.</p> <p>25 Q How long after Officer Wietecha attempted to deploy his</p>
<p style="text-align: right;">Page 71</p> <p>1 Q What color was the shirt?</p> <p>2 A I don't know. I don't remember.</p> <p>3 Q Was he wearing pants or shorts?</p> <p>4 A Pants.</p> <p>5 Q Do you remember what color they were?</p> <p>6 A Blue jeans, I think.</p> <p>7 Q So you think they were jeans?</p> <p>8 A Yes.</p> <p>9 Q Do you remember what kind of shoes he was wearing?</p> <p>10 A No.</p> <p>11 Q All right. So what happened after Officer Wietecha deployed his taser on Bobby Merrill?</p> <p>12</p> <p>13 A Didn't do anything. He was still -- it was not effective to him.</p> <p>14</p> <p>15 Q And, again, why do you say it was not effective?</p> <p>16 A Because I don't think any of the probes -- I don't think the probes had penetrated him at all.</p> <p>17</p> <p>18 Q When I say how do you know it was not effective, did he respond at all --</p> <p>19</p> <p>20 A No.</p> <p>21 Q -- to the taser device?</p> <p>22 A No.</p> <p>23 Q So what happened next?</p> <p>24 A I continued to give him verbal commands, and then I activated my taser on him.</p> <p>25</p>	<p style="text-align: right;">Page 73</p> <p>1 taser did you deploy your taser?</p> <p>2 A Pretty quickly.</p> <p>3 Q About how long in time, if you can give an estimate?</p> <p>4 A I can't. I really don't know. Pretty quick, though.</p> <p>5 Q How many times -- Scratch that. You've already said you don't know.</p> <p>6</p> <p>7 A I could see where his probes had hit him, and I knew that it didn't penetrate him. So, I didn't waste a lot of time. I aimed for his leg, because I knew there would be a better chance of it penetrating his leg.</p> <p>8</p> <p>9</p> <p>10</p> <p>11 Q And did you actually strike him in the leg with the taser barbs?</p> <p>12</p> <p>13 A Yes.</p> <p>14 Q Did you see the taser barbs strike him in the leg?</p> <p>15 A One of them, yeah.</p> <p>16 Q All right. And did he respond to that deployment of the taser?</p> <p>17</p> <p>18 A Yeah, he fell down on the ground.</p> <p>19 Q Where was he standing at the point that he fell on the ground?</p> <p>20</p> <p>21 A He kind of took a few steps before he fell down. He started to walk around, started to tumble in front of Officer Wietecha's vehicle, the front end. And then he kind of fell around the side of it, like in the middle of Washington Street, kind of by his driver's side door.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

(Pages 70 to 73)

<p style="text-align: right;">Page 74</p> <p>1 Q Okay. And I apologize for going through this again. I 2 just want to make sure that I've got it. At the point 3 that you and Officer Wietecha are out of your vehicles, 4 are you guys standing in the street when you first get 5 there? 6 A Yes. 7 Q And Bobby Merrill, was he standing near the middle of the 8 street or near the side by like the curb? 9 A I don't recall. He wasn't in the middle of the road. I 10 think he was in the southbound lane of Washington. 11 Q Okay. So he was in the southbound lane of Washington, 12 but he's not in the very middle of the road? 13 A Yeah. 14 Q All right. So you and Officer Wietecha, kind of next to 15 each other, start to approach the area, correct? 16 A Yes. 17 Q Bobby Merrill, you said, was coming toward you guys, 18 correct? 19 A Yes. 20 Q As he was coming toward you, was he walking? Was he 21 running? Was he -- 22 A Walking. 23 Q Was he walking slowly or quickly? 24 A A medium pace, I guess. 25 Q Okay. Officer Severs, is he next to you guys, or is he</p>	<p style="text-align: right;">Page 76</p> <p>1 could, him having that fighting stance and blank stare. 2 I don't know if Officer Wietecha gave him 3 verbal commands or not. I remember telling him to get on 4 the ground. Officer Wietecha activated his taser. I 5 could see where one of the probes hit, and I knew it 6 didn't have any effect on him. He still wasn't getting 7 on the ground. 8 I activated my taser. He fell to the ground. 9 I was hoping that was it. I was thinking that was going 10 to be it, but -- 11 Q Okay. After you activated your taser and he fell to the 12 ground, I believe you said before he didn't immediately 13 fall. He took a few steps first, correct? 14 A You could tell he was tumbling, but he didn't just drop 15 like they usually -- like someone normally drops. 16 Usually, you activate your taser on somebody, and they 17 look like they're getting electrocuted, and they 18 immediately fall to the ground. Well, he took a few 19 steps and then fell. 20 Q Okay. And when fell, did he fall face forward? Did he 21 fall to the side? Did he fall backward? How did he 22 fall? 23 A Face forward or on his side. I think face forward. 24 Q Okay. And what did you do after he fell face forward? 25 A I thought the fight was out of him then. I took the</p>
<p style="text-align: right;">Page 75</p> <p>1 behind Bobby Merrill? 2 A He's not behind him. He's to the side of him, I think. 3 Q Okay. 4 A I think to Officer Severs was to the west of Bobby 5 Merrill, like near the rear end of his own patrol unit. 6 Q Okay. And about how far was Officer Severs from Bobby 7 Merrill at that point? 8 A Just a guess again; probably 10 -- 10, 12 feet or 9 something like that. 10 Q About the same distance as you were away from Bobby 11 Merrill? 12 A Yeah. Maybe we were a little bit farther away than him. 13 Justin was closer to him, I think. 14 Q Okay. 15 A Officers Severs. 16 Q At the time that you deployed your taser, is he still in 17 the southbound lane of traffic, or is he closer to the 18 middle of the road? 19 A Somewhere close to there, that spot. I don't know. 20 Q At the time that you deployed your taser, was he walking 21 toward you, was he walking away from you, or was he 22 standing in the same spot? 23 A I don't couldn't tell you. I don't -- I don't remember. 24 I mean, it happened so quick. I just -- all's I remember 25 is pulling on scene, jumping out of my car as quick as I</p>	<p style="text-align: right;">Page 77</p> <p>1 cartridge out of my taser, which was a mistake, and then 2 put the taser back in my holster. 3 Q How many cycles did you apply with that taser cartridge? 4 A You'd have to get the records from SPD. But once or 5 twice, maybe not -- maybe just once. 6 Q You're not entirely positive, but you think it was once 7 or twice? 8 A Yeah. 9 Q Okay. And then you said you expended that cartridge? 10 A Yeah. 11 Q All right. After you expended the cartridge, what did 12 you do? 13 A Put the taser back in my holster, made sure it was 14 secure. And then I noticed that he started to fight on 15 the ground, so I went over there to help those guys to 16 try to get him -- 17 Q Now, I want to make sure we take this bit by bit. You 18 said that you expended the cartridge. You holstered your 19 taser, correct? 20 A Yes. 21 Q At this point, while you're doing this, are Officers 22 Wietecha and Severs approaching Bobby Merrill? 23 A Yeah. 24 Q So you didn't approach with Officer Severs and Officer 25 Wietecha?</p>

(Pages 74 to 77)

<p style="text-align: right;">Page 78</p> <p>1 A No. They approached him first.</p> <p>2 Q Okay. About how far were you when they made contact with</p> <p>3 Bobby Merrill from them?</p> <p>4 A Five or six feet, maybe.</p> <p>5 Q All right. And when you said that you saw Bobby Merrill</p> <p>6 start to fight, what did you mean by that?</p> <p>7 A He was actively resisting and kind of -- or he was</p> <p>8 flailing his arms and legs, and they were going to try to</p> <p>9 cuff him up. But he wouldn't have any of that. He was</p> <p>10 hitting back and then he was putting his arms underneath</p> <p>11 him and rolling around.</p> <p>12 Q Was he face up or face down?</p> <p>13 A Face down, I think, at the start.</p> <p>14 Q Was he lying flat, or was he supporting himself up?</p> <p>15 A He was lying flat.</p> <p>16 Q And he started flailing while he was lying flat face</p> <p>17 down?</p> <p>18 A Yes.</p> <p>19 Q Okay. When you saw that, what did you do?</p> <p>20 A Got my taser back in the holster as quick as I could and</p> <p>21 went over there and tried to help them. But his legs</p> <p>22 were kicking and that. So I tried to grab his legs.</p> <p>23 Q At the point when you got there, you're physically at the</p> <p>24 location where they are, what is Officer Wietecha doing?</p> <p>25 A When he's down on the ground? When Bobby Merrill's down</p>	<p style="text-align: right;">Page 80</p> <p>1 A That's just a guess. I mean, I think so.</p> <p>2 Q Okay. At the point that you approached, are Bobby</p> <p>3 Merrill's arms out, or are they tucked under him?</p> <p>4 A He would do -- he would -- I don't know. He would keep</p> <p>5 them underneath him. Then he would flail them out and go</p> <p>6 like this (Demonstrating). And then he would -- once</p> <p>7 you'd get a hold of an arm, he would rip it back free and</p> <p>8 then put it underneath and then flail. I mean, he was</p> <p>9 just kind of spazzing out on the ground.</p> <p>10 Q All right. So what did you do while they were trying to</p> <p>11 restrain his arms?</p> <p>12 A I tried to grab his legs and hold them down so he</p> <p>13 couldn't kick any of us.</p> <p>14 Q How did you try grabbing his legs?</p> <p>15 A At first -- I don't know. I'm just guessing. I tried to</p> <p>16 hold him down with my hands, my knee. That wasn't</p> <p>17 working too well. I think he even kicked me at some</p> <p>18 point in time.</p> <p>19 I know he kicked me, but -- I was just trying</p> <p>20 to get a hold of his legs so he couldn't kick or</p> <p>21 anything. And I thought, if I grab his legs and somebody</p> <p>22 would get a hold of, you know, his arms and that, we'd</p> <p>23 get him cuffed up, and then it would be all over.</p> <p>24 Q Okay. At some point, then, did any other officers arrive</p> <p>25 while this was going on?</p>
<p style="text-align: right;">Page 79</p> <p>1 on the ground?</p> <p>2 Q When Bobby Merrill is down on the ground and he's</p> <p>3 flailing about, after you holster your taser and you walk</p> <p>4 over there, what is Officer Wietecha doing when you get</p> <p>5 up there?</p> <p>6 A I think he's trying to restrain him.</p> <p>7 Q What side of Bobby is Officer Wietecha on?</p> <p>8 A I think Officer Wietecha's on Bobby Merrill's left side.</p> <p>9 Q Okay. Where is Officer Severs?</p> <p>10 A I think Officer Severs is on the right side.</p> <p>11 Q And then do you -- when you approached, do you go toward</p> <p>12 Bobby's head, or do you go toward his feet?</p> <p>13 A Feet.</p> <p>14 Q All right. As you approached, what did you see Officer</p> <p>15 Wietecha doing on the left side?</p> <p>16 A Restraining him.</p> <p>17 Q What part of his body was he grabbing, of Bobby Merrill's</p> <p>18 body was he grabbing?</p> <p>19 A I think he was grabbing his arm and his -- I mean, he was</p> <p>20 on his right side. I think he was trying to get control</p> <p>21 of his left arm is what he was trying to do.</p> <p>22 Q Okay. What was Officer Severs doing?</p> <p>23 A Doing the same thing on the right side; trying to get a</p> <p>24 hold of his right arm.</p> <p>25 Q Okay. So they were each going for arms, right?</p>	<p style="text-align: right;">Page 81</p> <p>1 A Yeah. But at what point in time, I really don't</p> <p>2 remember. I know Officer Madaj showed up, but at what</p> <p>3 point in contact I don't remember.</p> <p>4 Q Did Officer Madaj arrive as you were still struggling</p> <p>5 with Mr. Merrill on the ground?</p> <p>6 A Oh, yeah. Yes.</p> <p>7 Q Okay.</p> <p>8 A Maybe before. I don't know. But I remember seeing him</p> <p>9 right when we were getting on the -- when we were on the</p> <p>10 ground.</p> <p>11 Q When Bobby Merrill was on the ground, what techniques did</p> <p>12 you employ to try to get compliance from him?</p> <p>13 A Well, first I tried to hold his legs down. That wouldn't</p> <p>14 work. So I gave him a knee strike in his upper right</p> <p>15 leg, I believe. That didn't do anything.</p> <p>16 So then I decided, well, I can't get a hold of</p> <p>17 his legs there, so I'm going to try to get a hold of his</p> <p>18 arm, because we had more people up there. And,</p> <p>19 eventually, I ended up getting control of his left arm</p> <p>20 somewhat with some help.</p> <p>21 And then I ended up getting his left arm</p> <p>22 cuffed, or his left wrist cuffed. And I tried to cuff</p> <p>23 his right, but he's a big guy. His shoulders are too</p> <p>24 broad. You couldn't really get one set of cuffs on him.</p> <p>25 So, I don't know whose cuffs were used for the</p>

(Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 right side. It might have even been mine. I don't</p> <p>2 remember. We ended up getting that cuffed, and then I</p> <p>3 got them cuffed both together with the help of people.</p> <p>4 Q How many knee strikes did you deliver to Bobby Merrill?</p> <p>5 A One, I think.</p> <p>6 Q Did you see any of the other officers perform any knee</p> <p>7 strikes?</p> <p>8 A I don't know if I seen anybody have a knee strike. I</p> <p>9 don't think so.</p> <p>10 Q Did you see any of the other officers utilize any tools</p> <p>11 to try to gain compliance?</p> <p>12 A Yeah. Officer Wietecha used his baton.</p> <p>13 Q And what did Officer Wietecha do with the baton?</p> <p>14 A He struck him in his arm.</p> <p>15 Q How many times?</p> <p>16 A I don't know. More than once.</p> <p>17 Q Which arm did he strike?</p> <p>18 A I think it would have been his left hand.</p> <p>19 Q Is that proper protocol?</p> <p>20 A Sure.</p> <p>21 Q You say "sure." But "sure" isn't --</p> <p>22 A Yes.</p> <p>23 Q -- necessarily definite.</p> <p>24 A Yes.</p> <p>25 Q Is that in a handbook somewhere?</p>	<p style="text-align: right;">Page 84</p> <p>1 A I don't know.</p> <p>2 Q Do you know where Officer Madaj used the taser?</p> <p>3 A I think he used it on his back.</p> <p>4 Q Do you know where on the back?</p> <p>5 A I don't know. Maybe his arm. He was on the upper side</p> <p>6 of his body, so --</p> <p>7 Q Do you remember what arm?</p> <p>8 A No.</p> <p>9 Q Do you remember how many times he tried to apply the</p> <p>10 taser?</p> <p>11 A No.</p> <p>12 Q Was it more than once?</p> <p>13 A I think so.</p> <p>14 Q Was it more than twice?</p> <p>15 A I don't know.</p> <p>16 Q So you said that once you got Bobby Merrill's left hand</p> <p>17 cuffed, you tried working on the right hand, right?</p> <p>18 A Yes.</p> <p>19 Q And then once you got the right hand cuffed, you had to</p> <p>20 use -- you essentially had to use two sets of cuffs</p> <p>21 because his shoulders were so broad, right?</p> <p>22 A Right.</p> <p>23 Q Okay. After you had him cuffed, what happened at that</p> <p>24 point?</p> <p>25 A Then he still -- he still was resisting, so I helped keep</p>
<p style="text-align: right;">Page 83</p> <p>1 A I don't know of any handbook we have. But in the police</p> <p>2 academy, as far as PPCT techniques, yeah. Yes.</p> <p>3 Q Okay. So that was a -- that's a trained -- PP --</p> <p>4 A It's called PPCT, I think.</p> <p>5 Q PPCT technique, yes.</p> <p>6 A Yeah.</p> <p>7 Q That's an appropriate PPCT technique?</p> <p>8 A Yes.</p> <p>9 Q All right. So, the knee strike doesn't work. You're</p> <p>10 eventually able to get a hold of Bobby Merrill's left</p> <p>11 arm, correct --</p> <p>12 A Yes.</p> <p>13 Q -- and cuff him?</p> <p>14 A Took me a little bit, but, yes.</p> <p>15 Q Do you remember if Officer Jeff Madaj was able to do</p> <p>16 anything during this circumstance?</p> <p>17 A Yeah. I mean, he -- I don't know his exact actions, but</p> <p>18 he helped us get control of his arms, I think.</p> <p>19 Q Did you see Officer Madaj --</p> <p>20 A He might have pinned his head down. I don't know.</p> <p>21 Q Did Officer Madaj utilize any devices?</p> <p>22 A Yeah. He used his taser drive-stun mode.</p> <p>23 Q So that's the mode without the barbs, correct?</p> <p>24 A Yes.</p> <p>25 Q How many times did Officer Madaj use the taser?</p>	<p style="text-align: right;">Page 85</p> <p>1 him pinned down.</p> <p>2 Q How did you keep him pinned down?</p> <p>3 A I don't if -- I think I might have put my knee in between</p> <p>4 his shoulders or held him down with my arm, something</p> <p>5 like that. You've got to -- I mean, he -- Bobby wasn't</p> <p>6 my only -- my main focus. I mean, I'm paying attention</p> <p>7 to -- we're right in the middle of traffic with cars</p> <p>8 going by, so --</p> <p>9 Q Cars were still going by at this point?</p> <p>10 A Oh, yeah.</p> <p>11 Q At some point, were you able to effect compliance?</p> <p>12 A No.</p> <p>13 Q All right. So were you able to keep him pinned down as</p> <p>14 you tried to keep him pinned down?</p> <p>15 A Yes. Once he was cuffed behind the back, we were able to</p> <p>16 somewhat gain control of him. But, I mean, he was still</p> <p>17 fighting the whole time.</p> <p>18 Q Was he saying anything?</p> <p>19 A Yeah.</p> <p>20 Q What was he saying?</p> <p>21 A I mean, excuse my language, but he's, like, saying that</p> <p>22 we were fucking him in the butt and just crazy stuff.</p> <p>23 Q Okay.</p> <p>24 A Or asking us to or -- I don't know. It was something --</p> <p>25 something wild.</p>

(Pages 82 to 85)

<p style="text-align: right;">Page 86</p> <p>1 Q Were there any other people around while this was going 2 on? 3 A Besides us officers? 4 Q Yes. 5 A As this went on farther, there was starting to be people 6 that were crowding around from different directions, 7 different sides. 8 Q And were they crowding immediately around you, or were 9 they staying a respectable distance back? 10 A They were starting to come in a little bit close. We had 11 to tell them to go -- to move back. 12 Q Were they coming into the street, or were they staying on 13 the sidewalks? 14 A They were starting to come into the streets. 15 Q Okay. And who told them to stay back? 16 A I know I was. I think some other officers were, too. I 17 was getting a little bit concerned about that. 18 Q Right. 19 A I didn't want them to get hit by a car. I mean, a lot of 20 them -- there were some saying, "Hey, Bobby, knock it 21 off. Just do what they say. Stop fighting. Stop 22 fighting." 23 Then there was other people that were angry 24 about it. So, I mean, you didn't know who you had behind 25 your back, so...</p>	<p style="text-align: right;">Page 88</p> <p>1 A Bobby had two sets of cuffs behind his back. He had 2 another set of cuffs hanging from the middle of the two 3 cuffs that were cuffed together hanging down, and that 4 rope was attached to that hanging set of cuffs. And then 5 how they bound his feet, I don't remember exactly, but -- 6 or how they had his feet together, were attached to 7 that -- to that rope. 8 Q Okay. So the rope was attached to a set of handcuffs 9 that was attached to the cuffs binding his wrists 10 together? 11 A Yeah. Yes. 12 Q And you're not sure how his feet were bound, but the rope 13 was going from that last set of cuffs down to his feet 14 area? 15 A Yes. 16 Q Okay. Do you remember how taut that connection was? 17 A What's taut? 18 Q Do you remember if there was any slack? 19 A Oh, yeah, there was slack. 20 Q How much slack was there? 21 A Enough where you could stand up and walk. 22 Q Do you remember, if he were standing straight up, if it 23 was sort of, again, completely tight, or if it was 24 hanging down? 25 A It was hanging down.</p>
<p style="text-align: right;">Page 87</p> <p>1 Q All right. Did you end up restraining Bobby in any other 2 way other than with the handcuffs? 3 A I didn't. But the other officers, they used a rope for 4 his -- wait, they cuffed his feet, I think. 5 Q So are you saying that his feet were bound at some point? 6 A Yes. 7 Q Do you remember how his feet were bound? 8 A Gosh. You know, I think it was through cuffs. Or, wait, 9 maybe was through a rope. You know what? I don't 10 remember. 11 Q Do you remember seeing a rope? 12 A Yeah. 13 Q What kind of rope was it? 14 A It was a specific rope for animal control is what it was. 15 Q For animal control? 16 A Yeah. It was to -- it was like a dog leash. 17 Q Do you remember what color it was? 18 A I want to say it was red. But I don't know why I say 19 that. I don't -- I think it was red. 20 Q Was this something that's police issued? 21 A No, not through the police department. 22 Q Do you remember -- do you know where it came from? 23 A No. But I'm sure it came from Animal Control, because 24 that's what it looks like. 25 Q Do you remember how the leash was used?</p>	<p style="text-align: right;">Page 89</p> <p>1 Q Do you remember about how far it was hanging down? 2 A No. I don't remember exactly. But he wouldn't get up 3 for us, so we had to pick him up. And, you know, we 4 stood him up, and I remember that there was slack there. 5 MR. REISING: Counsel, can we take a break? 6 MR. BRUNETTI: Sure. 7 (Discussion off the record. Recess taken 8 at 2:33 p.m. Deposition resumed at or 9 about 2:46 p.m.) 10 Q (BY MR. BRUNETTI) All right. Prior to our break, we had 11 been talking about the manner in which Bobby Merrill was 12 restrained. You had indicated that he was cuffed with 13 two sets of cuffs behind his back, but there was a third 14 set of cuffs running down to the dog leash, and the dog 15 leash was running down to his feet, was bound to his feet 16 in some way, correct? 17 A Yes. 18 Q All right. And you said that there was slack between 19 the dog leash and, essentially, the back of his legs, 20 right? 21 A Yes. 22 Q All right. You also testified that Bobby Merrill 23 wouldn't get up, that you had to get him up, correct? 24 A Yes. 25 Q How did you have to -- well, let me ask you this: Did</p>

(Pages 86 to 89)

<p style="text-align: right;">Page 90</p> <p>1 you ask him to get up?</p> <p>2 MR. REISING: Did this witness ask him?</p> <p>3 MR. BRUNETTI: Yes.</p> <p>4 MR. REISING: Okay.</p> <p>5 THE WITNESS: I don't know that I asked him. I</p> <p>6 know someone did. Maybe I did.</p> <p>7 Q (BY MR. BRUNETTI) Right after he was bound, okay, right</p> <p>8 after he's cuffed and secured, how many of the officers</p> <p>9 out of the four of you were there?</p> <p>10 A All of us.</p> <p>11 Q So you were all standing around him right there?</p> <p>12 A Yes.</p> <p>13 Q All right. Do you know who asked him to get up?</p> <p>14 A No.</p> <p>15 Q But did you hear somebody ask him to get up?</p> <p>16 A I might have even asked him to. I don't -- it wasn't</p> <p>17 really significant. I can't remember.</p> <p>18 Q But do you know for sure that someone asked him to get</p> <p>19 up?</p> <p>20 A I'm sure, yeah, somebody or -- or myself asked him.</p> <p>21 Q But you don't know if it was you?</p> <p>22 A Right.</p> <p>23 Q And you don't remember if somebody else did?</p> <p>24 A Right.</p> <p>25 Q Okay. Regardless, Bobby didn't get up, right?</p>	<p style="text-align: right;">Page 92</p> <p>1 of his arms?</p> <p>2 A Yeah, I think so.</p> <p>3 Q Were you guys able to get him up?</p> <p>4 A Yes.</p> <p>5 Q Were you able to get him up to his feet?</p> <p>6 A Yes.</p> <p>7 Q When you got him to his feet, was he standing?</p> <p>8 A At some point in time he did, but I remember him pulling</p> <p>9 -- curling his feet back, you know, just to have us hold</p> <p>10 him instead of him standing on his own.</p> <p>11 Q So you're saying that when you lifted him up, he was</p> <p>12 curling his feet back?</p> <p>13 A At some point in time, he did. He dropped his weight.</p> <p>14 Q But you know his feet were curling back?</p> <p>15 A Yeah. They didn't curl forward.</p> <p>16 Q Is that a yes?</p> <p>17 A Yes.</p> <p>18 Q So, regardless, at that point he wasn't standing?</p> <p>19 A At some point in time, he was but --</p> <p>20 Q Okay. Were you able -- was he able to walk to the car?</p> <p>21 A He was able, but he didn't.</p> <p>22 Q He didn't walk to the car?</p> <p>23 A I don't think he did, no.</p> <p>24 Q How did he get to the car?</p> <p>25 A We moved him.</p>
<p style="text-align: right;">Page 91</p> <p>1 A Right.</p> <p>2 Q So what did you guys do after he didn't get up?</p> <p>3 A We lifted him up.</p> <p>4 Q Who lifted him up?</p> <p>5 A Myself and the other officers.</p> <p>6 Q So you actually took part in lifting him up?</p> <p>7 A Yes.</p> <p>8 Q How did you -- where -- what part of his body did you</p> <p>9 grab?</p> <p>10 A I think that I lifted him up under -- by his arm, if I</p> <p>11 recall correctly. I just remember he was like dead</p> <p>12 weight, you know. He was really making it hard for us to</p> <p>13 pick him up.</p> <p>14 Q When you lifted him up by his arm, do you know which arm</p> <p>15 you were trying to grab?</p> <p>16 A His left I think. It's hard for me to remember that.</p> <p>17 Q Okay. And did you grab him by his arm? Did you grab him</p> <p>18 like under the armpit?</p> <p>19 A I would think I would grab him under the armpit.</p> <p>20 Q Do you know what other officers tried to pick him up?</p> <p>21 A I think everybody played a part in trying to help him off</p> <p>22 the ground.</p> <p>23 Q Do you remember who was grabbing him where?</p> <p>24 A No.</p> <p>25 Q But you know that you were trying to grab him under one</p>	<p style="text-align: right;">Page 93</p> <p>1 Q When you say "we," who are you referring to?</p> <p>2 A Me and the other officers that were there. I think</p> <p>3 everybody had a hold of him somewhere.</p> <p>4 Q Okay. At the point that you moved him to the car, what</p> <p>5 part of his body did you have a hold on?</p> <p>6 A I think his left side somewhere.</p> <p>7 Q So you think you're on his left side?</p> <p>8 A Yeah, because I think I moved. When the car door of the</p> <p>9 patrol unit was opened, I kind of got in the way so that</p> <p>10 I couldn't really do anything anymore.</p> <p>11 Q Okay. Do you remember who was on his right side?</p> <p>12 A I know Madaj, Officer Madaj, was somewhere around on that</p> <p>13 side there.</p> <p>14 Q Do you remember who was behind him?</p> <p>15 A No.</p> <p>16 Q Okay. How did you guys physically move him from that</p> <p>17 spot to the car?</p> <p>18 A From lifting him up off the ground to the car?</p> <p>19 Q Right. We've already indicated that you guys had to lift</p> <p>20 him up, right?</p> <p>21 A Yes.</p> <p>22 Q And that he wasn't going to walk to the car?</p> <p>23 A Right.</p> <p>24 Q So, when you wanted to get him to the car, how did you</p> <p>25 physically get him to the car?</p>

(Pages 90 to 93)

<p style="text-align: right;">Page 98</p> <p>1 there and Officer Severs.</p> <p>2 Q Do you know how they were able to get it shut?</p> <p>3 A I don't know. They probably pushed his feet in and shut</p> <p>4 the door. I'm not sure.</p> <p>5 Q What did you guys do after you were able to get him in</p> <p>6 the car?</p> <p>7 A We moved the car out of the road because it was right in</p> <p>8 the middle of the road.</p> <p>9 Q Where was the car moved to?</p> <p>10 A I think it was -- well, I know it was moved onto Gilmore</p> <p>11 Street.</p> <p>12 Q Who moved the car?</p> <p>13 A I think Officer Wietecha did. We might have had to</p> <p>14 shuffle a couple cars. Because my car was here, and</p> <p>15 Officer Severs' car was there. I don't know if he fit in</p> <p>16 between them or -- I don't -- I don't think I moved my</p> <p>17 car. Somebody might have moved my car, though.</p> <p>18 Q Okay. But, regardless, you know the car that Bobby</p> <p>19 Merrill was in was moved to Gilmore Street?</p> <p>20 A Right. Yep.</p> <p>21 Q And you know --</p> <p>22 A Yes.</p> <p>23 Q -- that Officer Wietecha moved that car, correct?</p> <p>24 A I guess I don't know that for sure. I think he did,</p> <p>25 though.</p>	<p style="text-align: right;">Page 100</p> <p>1 Q Every person --</p> <p>2 A I mean, I was part of the incident, so, I mean, I can't</p> <p>3 really be taking statements from people.</p> <p>4 Q Right. Every person that you talked to, did you put</p> <p>5 their names in your report?</p> <p>6 A No.</p> <p>7 Q Why didn't you put their names in your report?</p> <p>8 A Because some people I didn't know their names.</p> <p>9 Q How many people that you talked to did you know the names</p> <p>10 of?</p> <p>11 A Two.</p> <p>12 Q And one was Stephanie?</p> <p>13 A Well, I guess I didn't. One. I spoke to Bobby Merrill's</p> <p>14 mother, though. I didn't know her name.</p> <p>15 Q Okay. But you still -- and Stephanie Burton was the only</p> <p>16 person that -- is the other person that you knew?</p> <p>17 A That she gave me her name, yes.</p> <p>18 Q Okay. Did you speak with anyone else who gave you their</p> <p>19 name?</p> <p>20 A I don't believe so, no.</p> <p>21 Q Okay. Were you able to control the scene after Bobby</p> <p>22 Merrill's car was moved to -- the car that he was in was</p> <p>23 moved to Gilmore?</p> <p>24 A Yes. But I wouldn't have wanted to leave my post because</p> <p>25 I think people would have probably came in.</p>
<p style="text-align: right;">Page 99</p> <p>1 Q Okay. So Bobby Merrill's in the back seat. Did he still</p> <p>2 have taser barbs and leads on his person?</p> <p>3 A I think Officer Madaj took those out while we were --</p> <p>4 while he was still on the ground. When he got</p> <p>5 restrained, I think Officer Madaj pulled them out.</p> <p>6 Q Okay. What did you do after Wietecha's car was moved to</p> <p>7 Gilmore?</p> <p>8 A We had some people starting to crowd, wanting to come</p> <p>9 into the scene.</p> <p>10 Q Yeah.</p> <p>11 A So I went to the corner of Gilmore and Washington and</p> <p>12 kept people back. They kept wanting to come in. "What's</p> <p>13 going on?"</p> <p>14 Q Did you talk to any of these people?</p> <p>15 A Yeah.</p> <p>16 Q Did you get statements from any of these people?</p> <p>17 A I did from one person.</p> <p>18 Q Do you remember who that statement was from?</p> <p>19 A Yeah. Actually, Bobby Merrill's sister I spoke to.</p> <p>20 Q What's her name?</p> <p>21 A It's in my -- Stephanie Burton, I think. I have it in my</p> <p>22 report. I think it's Burton, yeah.</p> <p>23 Q Is that the only person that you took a statement from?</p> <p>24 A No. I didn't -- I mean, I guess I didn't per se take</p> <p>25 statements. But I had conversations with people there.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q Okay. What was the atmosphere at that time?</p> <p>2 A People were pretty -- people were upset and hooting and</p> <p>3 hollering and wondering what was going on more than</p> <p>4 anything. Gawkers. It sounded -- I had the impression</p> <p>5 that the people who witnessed the incident knew Bobby</p> <p>6 Merrill, so they had contacted his family and family had</p> <p>7 come down there wondering what was going on.</p> <p>8 Q Had you ever had contact with Bobby Merrill before?</p> <p>9 A I don't believe I have. He didn't look familiar, and his</p> <p>10 name didn't look familiar. I could have, but nothing</p> <p>11 that I remember.</p> <p>12 Q So you didn't recognize him when you interacted with him?</p> <p>13 A No.</p> <p>14 Q Did anything happen that drew your attention back to the</p> <p>15 car that Bobby Merrill was in after he was secured and</p> <p>16 the car was moved?</p> <p>17 A Yeah. I was talking to somebody, and they were like --</p> <p>18 they pointed over and said, "Oh, my God, he's --</p> <p>19 something's wrong with him." And I looked back, and I</p> <p>20 seen that the officers and MMR were performing CPR on</p> <p>21 him.</p> <p>22 Q Okay. And is that the first time that you knew that</p> <p>23 something was going on?</p> <p>24 A Yeah. I didn't know --</p> <p>25 Q About how long after he had been secured in the car did</p>

(Pages 98 to 101)

<p style="text-align: right;">Page 134</p> <p>1 "Please admit that Defendant Officer Brian</p> <p>2 Guest deployed his taser on the decedent, Bobby Merrill,</p> <p>3 without first providing warning or notification." That</p> <p>4 was denied as untrue.</p> <p>5 Are you saying here that you're admitting that</p> <p>6 you didn't give him a warning you were going to tase him?</p> <p>7 A Let me read that again.</p> <p>8 My notification was, "Get on the ground."</p> <p>9 Q Well, that was notification to get on the ground, but</p> <p>10 that wasn't notification you were going to deploy your</p> <p>11 taser, right?</p> <p>12 A To me, it was.</p> <p>13 Q But you didn't specifically say –</p> <p>14 A I don't think I did. No, I don't think I'd say, "Get on</p> <p>15 the ground or I'm gonna taser you."</p> <p>16 Q Okay. But you told him to get on the ground?</p> <p>17 A Right.</p> <p>18 Q All right. But you didn't – you never told him, "I'm</p> <p>19 going to deploy my taser"?</p> <p>20 A I don't remember. I might have. I don't remember.</p> <p>21 Q Okay.</p> <p>22 A I remember saying, "Get on the ground." In the heat of</p> <p>23 the moment, there's a lot of things that are said.</p> <p>24 Sometimes you can't exactly remember. I wish I had a</p> <p>25 tape recorder or something.</p>	<p style="text-align: right;">Page 136</p> <p>1 he was handcuffed?</p> <p>2 A Yeah, I did handcuff him while he was laying on the</p> <p>3 ground.</p> <p>4 Q So, then, this is inaccurate?</p> <p>5 A Yeah, that is.</p> <p>6 Q Okay.</p> <p>7 A I mean, he was on the ground. He wasn't laying like a</p> <p>8 nice guy, but he was on the ground.</p> <p>9 Q And when you and the other officers took physical custody</p> <p>10 of Bobby Merrill, okay, in the manner in which you cuffed</p> <p>11 him, the manner in which you took custody of him, was</p> <p>12 that consistent with the policies and procedures of the</p> <p>13 Saginaw Police Department?</p> <p>14 A Yes.</p> <p>15 Q Did anything – anything that you did, was anything</p> <p>16 inconsistent with the policies and procedures of the</p> <p>17 Saginaw Police Department?</p> <p>18 A No.</p> <p>19 Q All right. So everything was consistent?</p> <p>20 A Yes.</p> <p>21 Q All right. I would like you to look at Number 17.</p> <p>22 "Please admit that Defendant Officer Brian</p> <p>23 Guest took physical custody of Bobby Merrill in a manner</p> <p>24 consistent with official policies and protocols of the</p> <p>25 Saginaw Police Department."</p>
<p style="text-align: right;">Page 135</p> <p>1 Q Prior to the time that you tasered Bobby Merrill, when</p> <p>2 you're standing there holding your taser at him, was he</p> <p>3 committing a crime?</p> <p>4 A Yes.</p> <p>5 Q What was he committing?</p> <p>6 A Resist and obstruct a police officer.</p> <p>7 Q Anything else?</p> <p>8 A No, that's it.</p> <p>9 Q That's it. Okay.</p> <p>10 MR. REISING: R&O, right?</p> <p>11 THE WITNESS: Right.</p> <p>12 MR. REISING: Thank you.</p> <p>13 Q (BY MR. BRUNETTI) When you secured... hold on one</p> <p>14 second.</p> <p>15 When you handcuffed Bobby Merrill's hands</p> <p>16 behind his back, was he lying on the ground?</p> <p>17 A Yes.</p> <p>18 Q Okay. I'd like you to look at Request to Admit Number</p> <p>19 14.</p> <p>20 A Okay.</p> <p>21 Q "Please admit that Defendant Officer Brian Guest</p> <p>22 handcuffed Bobby Merrill's hands behind his back as he</p> <p>23 was laying on the ground.</p> <p>24 "Denied as untrue."</p> <p>25 Are you saying he was lying on the ground when</p>	<p style="text-align: right;">Page 137</p> <p>1 Do you see that?</p> <p>2 A Yes.</p> <p>3 MR. REISING: It should say yes.</p> <p>4 Q (BY MR. BRUNETTI) And your answer is, "Denied as</p> <p>5 untrue"?</p> <p>6 MR. REISING: That's my mistake.</p> <p>7 MR. BRUNETTI: That's your mistake? Okay.</p> <p>8 MR. REISING: It should be yes.</p> <p>9 Q (BY MR. BRUNETTI) So you're saying that you did</p> <p>10 take custody of him in a manner consistent with the</p> <p>11 Saginaw Police Department –</p> <p>12 A Yes.</p> <p>13 Q Okay.</p> <p>14 MR. REISING: I apologize, Counsel.</p> <p>15 MR. BRUNETTI: Can I have this marked and</p> <p>16 admitted as Exhibit 1.</p> <p>17 (Deposition Exhibit Number 1 was marked</p> <p>18 for identification by the reporter)</p> <p>19 MR. BRUNETTI: I have no further –</p> <p>20 MR. REISING: Let me make sure I'm reading that</p> <p>21 correctly.</p> <p>22 Yes, that should be -- Number 17 is my error.</p> <p>23 It should be "Admitted".</p> <p>24 MR. BRUNETTI: Okay.</p> <p>25 MR. REISING: I apologize.</p>

(Pages 134 to 137)

<p style="text-align: right;">Page 138</p> <p>1 MR. BRUNETTI: No further questions.</p> <p>2 MR. REISING: And I have no questions of the</p> <p>3 witness.</p> <p>4 You're all done.</p> <p>5 THE WITNESS: All right.</p> <p>6 MR. BRUNETTI: All set.</p> <p>7 (Deposition adjourned at 3:41 p.m.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

(Page 138)

1 CERTIFICATE OF NOTARY PUBLIC.

2

3 DEPONENT: OFFICER BRIAN D. GUEST (STATE OF MICHIGAN)
4 RECORDED: November 21, 2013 (SS)
5 LOCATION: Saginaw, Michigan (COUNTY OF GENESEE)

6

7 Being a Notary Public duly
8 commissioned and qualified in and for the State of Michigan at
9 Large, I do hereby certify that pursuant to notice there came
10 before me the deponent herein, who was by me first duly sworn
11 to testify to the truth and nothing but the truth touching and
12 concerning the matters in controversy in this cause.

13

14 Being thereupon carefully examined
15 under oath, said examination was recorded stenographically and
16 was later reduced to transcription under my supervision; said
17 transcription being a true record of the testimony given by
18 the witness.

19

20 I further certify that I am neither
21 attorney or counsel for, nor related to or employed by any of
22 the parties to the action in which this deposition was taken;
23 and further, I am not a relative or employee of any attorney
24 or counsel employed by the parties hereto or financially
25 interested in the action.

26

27 IN WITNESS WHEREOF, I have hereunto
28 subscribed my signature this 29th day of November, 2013.

29

30

31

32

33 MY COMMISSION EXPIRES:
34 December 29, 2015

35

36

37



David S. Ripka
David S. Ripka, CSR-2175